IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 124 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ? **1 to 5 NO**

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STATE OF GUJARAT - Applicant(s)
Versus
DHIRAJI RAJAJI MAKWANA - Respondent(s)

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Appearance :
MR SS PATEL ADDL PUBLIC PROSECUTOR for Applicant
MR PJ BHATT for MR HARSHAD J SHAH for Respondents

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 12/12/2006

ORAL JUDGMENT:

1. Invoking Articles 226 and 227 of the Constitution, the petitioner-State has challenged the order dated 26.7.1993 of the learned Additional Sessions Judge, Sabarkantha in Criminal Appeal No.37 of 1992 whereby the order

to confiscate tractor and trolley alongwith mineral and imposing fine of Rs.2000/- was set aside after an elaborate discussion of the evidence.

2. It was seen from the impugned judgment and order that the learned Additional Sessions Judge had taken note of the statements recorded and the panchnamas prepared by the officers of the forest department and, after recording detailed reasons, discarded them as unreliable. The respondents herein were found to be having legal permit to carry and transport rocks and minerals from a quarry which was not illegal.

3. Learned A.P.P. sought to challenge the findings of fact without pointing out how the findings could be said to be perverse. In the facts of the present case, it would be hazardous and unnecessary to re-appreciate the evidence for reaching to a different conclusion on facts. Therefore, no ground having been made out to interfere with the impugned order, the petition is dismissed and Rule is discharged with no order as to costs.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)